

# UNSOLICITED VIEWS

MoFo's monthly newsletter chronicling developments in hostile M+A

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## Deal Tracker

click name of situation below

- Aaron's/Vintage Capital Management
- Abercrombie & Fitch/Engaged Capital
- Aéropostale/Crescendo Partners
- AMCOL International/Imerys/Mineral Technologies
- Amedisys/KKR Asset Management
- Ampco-Pittsburgh/GAMCO Asset Management
- BioLase/Oracle Partners **NEW**
- BJ's Restaurants/Clinton Group/Luxor Capital/PW Partners Atlas Fund **NEW**
- BRE Properties/Land and Buildings Investment/Essex Property Trust
- Cliffs Natural Resources/Casablanca Capital
- CommonWealth/Corvex/Related Fund Management
- Compuware/Elliott Associates
- Cracker Barrel/Biglari
- DST Systems/The Argyros Family Trust
- eBay/Carl C. Icahn
- Endeavour International/Talisman Group Investments **NEW**
- GrafTech International/Nathan and Daniel Milikowsky
- Hudson Global/Lone Star Value Management
- Intevac/Voce Catalyst Partners **NEW**
- Juniper Networks/JANA Partners
- Materion/GAMCO Asset Management
- Miller Energy Resources/Concerned Miller Shareholders
- Morgans Hotel Group/OTK Associates
- National Interstate/American Financial Group
- Rentech/Concerned Rentech Shareholders
- Riverbed Technology/Elliott Associates
- Sensient Technologies/FrontFour Capital Group
- Sotheby's/Third Point
- The Men's Wearhouse/Jos. A. Bank Clothiers
- The Pantry/Concerned Pantry Shareholders
- TriQuint Semiconductor/Starboard Value
- Wausau Paper/Starboard Value

## Featured Article

### POISON PILLS WITH LOWER OWNERSHIP THRESHOLDS FOR ACTIVIST INVESTORS COME UNDER ATTACK

By Spencer Klein, Enrico Granata, and Daniel Hannon

On March 25, 2014, Daniel Loeb's Third Point LLC filed suit against Sotheby's and its directors in Delaware's Court of Chancery to invalidate Sotheby's poison pill. In its complaint, Third Point asks the court to decide on what is described as a novel question for Delaware courts — whether a board of directors can adopt a poison pill with a 10% ownership trigger directly in response to a stockholder who does not threaten a takeover of the company, but simply seeks minority representation on the board, where the poison pill has a 20% threshold for other investors. [Read more](#)

## In the Courts

### KAHN V. MF WORLDWIDE CORP.

#### The Delaware Supreme Court Affirms *In re MFW* Holding That a Going-Private Transaction May Gain the Benefit of Business Judgment Review

By Joel C. Haims, Michael G. O'Bryan, and James J. Beha II

On March 14, 2014, the Delaware Supreme Court decided *Kahn v. MF Worldwide Corp.* and unanimously affirmed the Chancery Court's ruling in *In re MFW*. As we discussed [previously](#), in *In re MFW*, then-Chancellor (now Chief Justice) Strine ruled that a going-private transaction with a controlling shareholder — typically subject to searching “entire fairness” review by the courts — may gain the benefit of the deferential business judgment rule if, at the outset of negotiations, the controller conditions any transaction on approval from both (1) an independent special committee of the board and (2) a majority of unaffiliated shareholders (a “majority-of-the-minority vote”). [Read more](#)

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